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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,660	04/02/2004	Chi-Ho Cynn	H0595.0008/P008	8206
24998	7590	10/31/2005	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP			CRAIG, PAULA L	
2101 L Street, NW			ART UNIT	
Washington, DC 20037			PAPER NUMBER	

3761

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,660

Applicant(s)

CYNN, CHI-HO

Examiner

Paula L. Craig

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-5 are objected to because of the following informalities: Claim 1 includes the phrase "one end" and "the other end" in line 3. It is not clear whether the ends referred to are the ends of the swab or the ends of the long conical shape. Appropriate correction is required. Claims 2-5 are rejected as dependent on Claim 1.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 includes the phrases "integrally comprising" and "wholly made". It is not clear to the Examiner whether or not these limitations permit additional elements in the swab other than those explicitly claimed, such as a stick or an adhesive. If additional elements do fall within the claim, the terms "integrally" and "wholly made" may be inappropriate. If additional elements do not fall within the claim, the transitional phrase "consisting of" might be more appropriate in place of "comprising". If it is intended that only certain minor elements, such as an adhesive, fall within the claim, the transitional phrase "consisting essentially of" may be suitable. Claims 2-5 are rejected as dependent on Claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,626,946 to Messey.

6. For Claim 1, Messey teaches a swab for the removal of water inside the ears (Figs. 1-8, col. 1, lines 1-15). The swab integrally comprises a long conical shape which is wholly made of high water-absorbing material (Figs. 1-8, col. 1, lines 19-26 and col. 2, lines 12-14). One end is a thick handle part which has appropriate solidity, the other end is a thin pointed part which is very soft and supple (Figs. 1-8 and Claim 1). The thick handle part is adequately solid to grip with fingers and as it goes to the thin pointed part, it becomes gradually soft and supple (Figs. 1-8, col. 1, lines 1-21, and Claim 1). Note that while the preferred embodiment of Messey is secured with a piece of adhesive tape, the use of adhesive tape in the handle part is indicated as being optional (see Claims 1-2).

7. For Claim 2, Messey teaches the swab being made of rolled fanwise tissue paper (col. 2, lines 12-14).

8. For Claim 5, Messey teaches the high water-absorbing material including compressed pulp. See compression of tissue paper described in col. 2, lines 12-20.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messey in view of U.S. Patent No. 6,080,126 to Zygmunt et al.

12. For Claim 3, Messey teaches all the limitations of Claim 2, as described above in paragraph 7. Messey teaches the tissue paper being secured with adhesive tape to prevent unraveling (Messey, Claim 2). Messey does **not** expressly teach the rim of the tissue paper being partly coated with adhesive to prevent unfastening or unraveling. However, the use of an adhesive to prevent paper from unrolling is well known in the art. Zygmunt confirms this and teaches a rolled paper with an adhesive spread on it to

prevent unraveling (col. 3, lines 47-50). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to modify the swab of Messey by securing the tissue paper with an adhesive as taught by Zygmunt, to prevent unraveling.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messey in view of U.S. Patent No. 1,210,720 to Stephan.

14. For Claim 4, Messey teaches all the limitations of Claim 1, as described above in paragraph 6. Messey does **not** expressly teach the high water-absorbing material including compressed cotton. Stephan teaches a swab with a conical shape, which is composed of compressed cotton (Fig. 1 and page 1, lines 11-17 and 60-67). Stephan indicates that the swab is useful for cleaning the ears and that the cotton is stiff enough to hold its own shape (page 1, lines 11-17 and 76-79). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the swab of Messey to include compressed cotton for cleaning the ears, as taught by Stephan.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art references listed on the accompanying Form PTO-892 show the general state of the art.

Art Unit: 3761

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571)272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

